# THE BOMBAY TOWN PLANNING ACT, 1915.

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# BOMBAY ACT No. I OF 1915.[1]

[THE BOMBAY TOWN PLANNING ACT, 1915.]

[*6th March 1915*]

Repealed in part and amended by Bom. 2 of 1919.
Amended by Bom. 13 of 1920 ;
" " " 16 of 1920.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 21 of 1938 ;
" " " 4 of 1942 ; *
" " " 14 of 1946 ;
" " " 55 of 1948 ;
" " " 69 of 1948 ;
" " " 13 of 1949 ;
" " " 59 of 1949 ;
" " " 8 of 1950.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 28 of 1950 ;
" " " 19 of 1951.

**An Act to provide for the making and execution of town planning schemes.**

WHEREAS it is expedient that the development of certain areas should be regulated with the general object of securing proper sanitary conditions, amenity and convenience to the persons living in such areas and in neighbouring areas ;

AND WHEREAS the previous sanction of the Governor General required by section 5 of the [2]Indian Councils Act, 1892, has been obtained for the passing of this Act ; It is hereby enacted as follows :—

## CHAPTER I.

### PRELIMINARY.

Short title and extent.

**1.** (*1*) This Act may be called the Bombay Town Planning Act, 1915.

[3][(*2*) It shall extend to the whole of the [4][State] of Bombay except the City of Bombay.

(*3*) The [5][State] Government may, on a written application of the Municipal Corporation of the City of Bombay, extend by notification in the *Official Gazette*, this Act to the City of Bombay or any part thereof, from such date as may be appointed in this behalf :

Provided that such application has been made after it has been assented to by more than half the total number of the councillors of the Corporation.]

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1913, Part VII, page 845 ; for Report of Select Committee, *see ibid*, 1914, Part VII, page 510 ; and for Proceedings in Council *see ibid*, 1914, Part VII, page 78 ; *ibid*, 1915, page 11.

[2] *See* now the Government of India Act, 1935.

[3] Sub-sections (*2*) and (*3*) were substituted for the original sub-section (*2*) by Bom. 21 of 1938, s. 2.

[4] This word was substituted for the word " Province " by the Adaptation of Laws Order, 1950.

[5] This word was substituted for the word " Provincial ", *ibid*.

* This Act was repealed and s. 2 thereof was re-enacted by Bom. 23 of 1947, s. 2.

Interpretation-clause.

**2.** In this Act unless there is anything repugnant in the subject or context—

[1][(*1a*) "land" includes benefits to arise out of land and things attached to the earth or permanently fastened to any thing attached to the earth ;]

(*a*) "local authority" means a Municipality or, where there is no Municipality, a committee appointed for a notified area under the provisions of Chapter XIV of the Bombay District Municipal Act, 1901, as modified by this Act [2][or a panchayat established under the Bombay Village Panchayats Act, 1933 ;] Bom. III of 1901.

(*b*) "prescribed" means prescribed by rules made under this Act ;

(*c*) "owner" includes an owner in severalty, in common or joint ; and includes also an occupant as defined in clause (*16*) of section 3 of the Bombay Land Revenue Code, 1879 ; Bom. VI of 1933. Bom. V of 1879.

(*d*) "plot" means a continuous portion of land held in one ownership ; [3]* * *

[4][(*dd*) "preliminary scheme" means a scheme relating to a town planning prepared by the arbitrator under section 44B ;]

(*e*) "reconstituted plot" means a plot which is in any way altered by the making of a town-planning scheme [5]* * ;

*Explanation.*—"Altered" includes alteration of ownership.

(*f*) "scheme" includes a plan relating to a town-planning scheme.

Contents of planning scheme.

**3.** A town-planning scheme may make provision for any of the following matters :—

(*a*) the construction, diversion, alteration and stopping up of streets, roads and communications ;

(*b*) the construction, alteration, and removal of buildings, bridges and other structures ;

(*c*) the plotting out of land as building sites whether such land is intended to be used for building purposes in the immediate future or not ;

(*d*) the allotment or reservation of land for roads, open spaces, gardens, recreation grounds, schools, markets and public purposes of all kinds ;

(*e*) drainage inclusive of sewage and of surface drainage and sewage disposal ;

(*f*) lighting ;

(*g*) water supply ;

(*h*) the preservation of objects of historical interest or natural beauty and of buildings actually used for religious purposes or regarded by the public with special religious veneration ;

(*i*) the imposition of conditions and restrictions in regard to the open space to be maintained about buildings, the number, height and character of buildings allowed in specified areas and the purposes to which buildings or specified areas may or may not be appropriated ;

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[1] This clause was inserted by Bom. 19 of 1951, s. 2.

[2] These words and figures were added by Bom. 55 of 1948, s. 2.

[3] The words "other than land used, allotted or reserved for any public or municipal purpose" were deleted by Bom. 21 of 1938, s. 3 (*a*).

[4] This clause was inserted by Bom. 19 of 1951 s. 2.

[5] The words "otherwise than by the severance of land used, allotted or reserved for any public or municipal purpose" were deleted by Bom. 21 of 1938, s. 3 (*b*).

(*j*) the suspension so far as may be necessary for the proper carrying out of the scheme, of any rule having the force of law, bye-law, Act, or other provision [1]* * * which is in force in the area included in the scheme :

[2][Provided that it shall not be lawful to suspend in any such area any Act of Parliament [3][of the United Kingdom] or, [4][any Indian law relating to any of the matters enumerated in List I in the Seventh Schedule to the [5][Constitution] ; ].

(*k*) such other matter not inconsistent, with the objects of this Act as may be prescribed.

Disputed ownership.

**4.** (*1*) Where there is a disputed claim as to the ownership of any piece of land included in an area in respect of which [6][the local authority has declared, under section 9, its intention to make a town planning scheme] and any entry in the record-of-rights or mutation register relevant to such disputed claim is inaccurate or inconclusive, an enquiry may be held [7][on an application being made by the local authority or the Arbitrator at any time prior to the date on which the Arbitrator draws up the final scheme under clause 10 of section 30] by such officer as the [8][[9][ State] Government] [10]* * * * may appoint for the purpose of deciding who shall be deemed to be the owner for the purposes of this Act.

(*2*) Such decision shall not be subject to appeal but it shall not operate as a bar to a regular suit.

(*3*) Such decision shall, in the event of a Civil Court passing a decree which is inconsistent therewith, be corrected, modified or rescinded in accordance with such decree as soon as practicable after such decree has been brought to the notice of the local authority either by the Civil Court or by some person affected by such decree.

Right of entry.

**5.** For the purpose of the preparation, making, or execution of any town-planning scheme any person authorized by the local authority or any public servant or person duly appointed or authorised under this Act may, after giving such notice as may be prescribed to the owner, occupier or other person interested in any land, enter upon, survey and mark out such land and do all acts necessary for such purpose.

Powers of local authority to borrow money and to make and execute a town-planning scheme.

**6.** (*1*) A local authority as defined in this Act shall be deemed to be a local authority as defined in the [11]Local Authorities Loans Act, 1914; for the purpose of borrowing money under that Act, and the making and execution of a town-planning scheme shall be deemed to be a work which such local authority is legally authorised to carry out.

IX of 1914.

(*2*) Any expenses incurred by a local authority under this Act or any town-planning scheme made thereunder may be defrayed out of its funds.

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[1] The words "under whatever authority made" were repealed by section 3 and Schedule II of the Bombay Repealing and Amending Act, 1919 (Bom. 2 of 1919).

[2] This proviso was added by section 2 and Schedule I, Part II, *ibid.*

[3] These words were inserted by the Adaptation of Laws Order, 1950.

[4] These words substituted for the words "without the sanction of the Governor-General, any Act of the Governor-General in Council" by the Adaptation of Indian Laws Order in Council.

[5] This word was substituted for the words and figures "Government of India Act, 1935" by the Adaptation of Laws Order, 1950.

[6] These words and figures were substituted for the words "any of the provisions of this Act are to be applied" by Bom. 21 of 1938, s. 4 (*1*).

[7] These words and figures were added, *ibid*, s. 4 (*2*).

[8] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[9] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[10] The words "in any area for which a municipal corporation is constituted under any enactment or the Commissioner elsewhere" were deleted by Bom. 28 of 1950, s. 4, Schedule.

[11] Central Acts.

Notified areas.

**7.** Notwithstanding anything contained in sub-section (*3*) of section 187 of the Bombay District Municipal Act, 1901, the [1][2][State] Government] may declare any specified area, for which it is proposed to make a town-planning scheme, to be a notified area. Bom. III of 1901.

## CHAPTER II.

### DECLARATION OF INTENTION TO MAKE A SCHEME AND PREPARATION OF DRAFT SCHEME.

Land in respect of which a town-planning scheme may be made.

**8.** (*1*) A town-planning scheme may be made in accordance with the provisions of this Act in respect of any land which is in course of development or is likely to be used for building purposes.

(*2*) Where it appears to the [1][2][State] Government] that a piece of land already built upon, or a piece of land not likely to be used for building purposes is so situated with respect to any land which is in course of development or likely to be used for building purposes that it ought to be included in any town-planning scheme intended to be made with respect to the last-mentioned land, the [1][2][State] Government] may sanction the making of a scheme including such piece of land as aforesaid, and providing for the demolition or alteration of any building thereon so far as may be necessary for carrying the scheme into effect.

(*3*) The expression "land likely to be used for building purposes" shall include any land likely to be used as or for the purpose of providing, open spaces, roads, streets, parks, pleasure or recreation grounds, or for the purpose of executing any work upon or under the land incidental to a town-planning scheme, whether in the nature of a building work or not, and the decision of the [1][2][State] Government] as to whether land is likely to be used for building purposes or not shall be final.

No town-planning schemes for areas for which housing schemes sanctioned under Bom. LXIX of 1948.

[3][**8A.** Notwithstanding anything contained in this Act, no town-planning scheme shall be made for any area for which a housing scheme has been sanctioned under the provisions of the Bombay Housing Board Act, 1948.] Bom. LXIX of 1948.

Powers of a local authority to resolve on a declaration of intention to make a scheme and of the [2] [State] Government to sanction such declaration.

**9.** (*1*) The local authority having jurisdiction over any such land as is referred to in section 8 may by resolution declare its intention to make a town-planning scheme in respect of the whole or any part of such land and of any land which is in the vicinity of such land, but which is not included [4][in the area over which any other local authority has jurisdiction] provided that for the making of such scheme the sanction of tne [1][2][State] Government] shall be necessary.

(*2*) Within twenty-one days from the date of such declaration (hereinafter referred to as a declaration of intention to make a scheme), the local authority shall despatch a copy thereof for publication in the [5][*Official Gazette*] and shall publish it in the prescribed manner and shall apply to the [1][2][State] Government] for sanction for the making of such scheme.

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[1] The words "Provincial Government" were substituted for the words "Governor-in-Council" by the Adaptation of Indian Laws Order in Council.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] This section was inserted by Bom. 69 of 1948, s. 75, Sch.

[4] These words were substituted for the original by Bom. 55 of 1948, s. 3.

[5] The word "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

(*3*) With its application for such sanction the local authority shall send to the [1][[2][State] Government] a plan showing the area which it proposes to include in the town-planning scheme and the surrounding lands.

(*4*) A copy of such plan shall be open to the inspection of the public at all reasonable hours at the head office of the local authority.

(*5*) If within one month from the date of such publication in the [3][*Official Gazette*] any person likely to be affected by such scheme communicates in writing to the [1][[2][State] Government] any objection or suggestion relating to such scheme the [1][[2][State] Government] shall consider such objection or suggestion.

(*6*) After receiving such application and after making such inquiry as [4][it] may think fit, the [1][[2][State] Government] may, by notification in the [3][*Official Gazette*], either sanction the making of such scheme with or without modifications and subject to such conditions as [4][it] may think fit to impose, or [4][it] may by a similar notification refuse to give sanction.

Preparation and publication of draft scheme.

**10.** (*1*) Within twelve months from the date of the notification sanctioning the making of a town-planning scheme the local authority shall in consultation with the owners prepare, and publish in the prescribed manner, a draft scheme for the area in respect of which sanction has been given.

[5][Provided that on application made by the local authority in that behalf, the [2][State] Government may from time to time, by notification in the *Official Gazette*, extend the said period of twelve months, but the aggregate period of such extensions shall not exceed twelve months.]

(*2*) If such publication is not made by the local authority within [6][the period specified in sub-section (*1*), or where the said period is extended under the proviso thereto, such extended period], the [1][[2][State] Government] [7]* * * may in consultation with the owners prepare, and publish in the prescribed manner, a draft scheme for the area in respect of which sanction has been given within a further period of nine months.

Lapsing of sanction.

(*3*) If such publication is not made by the [1][[2][State] Government] or the Commissioner, as the case may be, within the further period specified in sub-section (*3*), the sanction of the [1][[2][State] Government] for the making of such town planning scheme shall lapse, and until a period of three years has elapsed from the date of such sanction it shall not be competent to the local authority to apply for fresh sanction for the making of any town-planning scheme for the same area or for any part of it.

Contents of draft scheme.

**11.** The draft scheme shall contain the following particulars :—

(*a*) the area, ownership and tenure of each original plot;

(*b*) the land allotted or reserved under clause (*d*) of section 3 with a general indication of the uses to which such land is to be put [8][and the terms and conditions subject to which such land is to be put to such uses] ;

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[4] The word "it" was substituted for the word "he", *ibid.*

[5] This proviso was added by Bom. 14 of 1946, s. 2 (*i*).

[6] These words, figure and brackets were substituted for the words "twelve months from the date of such notification" *ibid*, s. 2 (*ii*).

[7] The words "in any area for which a municipal corporation is constituted under any enactment or the Commissioner elsewhere" deleted by Bom. 28 of 1950, s. 4, Schedule.

[8] These words were added by Bom. 21 of 1938, s. 5.

(*c*) the extent to which it is proposed to alter the boundaries of original plots;

(*d*) an estimate of the net cost of the scheme to be borne by the local authority;

(*e*) a full description of all details of the scheme under such clauses of section 3 as may be applicable; and

(*f*) any other prescribed particluars.

Reconstituted plots.

**12.** (*1*) In the draft scheme the size and shape of every reconstituted plot shall be so determined as to render it, so far as may be, suitable for building purposes.

(*2*) In order to render original plots more suitable for building purposes the draft scheme may contain proposals—

(*a*) to form a reconstituted plot by the alteration of the boundaries of an original plot,

(*b*) to provide with the consent of the owners that two or more original plots each of which is held in ownership in severality or in joint onwership shall hereafter, with or without alteration of boundaries, be held in ownership in common as a reconstituted plot,

(*c*) to allot a plot to any owner dispossessed of land in furtherance of the scheme, and

(*d*) to transfer the ownership of a plot from one person to another.

Objection to the draft scheme to be considered.

**13.** If within one month from the date of publication of the draft scheme any person affected by such scheme communicates in writing to the local authority any objection relating to such scheme the local authority shall consider such objection and may, at any time before submitting the draft scheme to the [1][[2][State Government] as hereinafter provided, modify such scheme as it thinks fit.

Power of the [2][State] Government to sanction a draft scheme.

**14.** (*1*) The local authority shall [3][within the period prescribed] submit the draft scheme with any modifications which it may have made therein together with the objections which may have been communicated to it to the [1][[2][State] Government] and shall at the same time aplpy for [4][its] sanction.

(*2*) After receiving such application and after making such inquiry as [5][it] may think fit, the [1][[2][State] Government] may [6][within the period prescribed] by notification in the [7][*Official Gazette*] either sanction such scheme with or without modifications and subject to such conditions as [5][it] may think fit to impose, or [8]* * * refuse to give sanction.

(*3*) If the [1][[2][State] Government] sanctions such scheme [5][it] shall in such notification state at what place and time the draft scheme shall be open to the inspection of the public.

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[1] The words "Provincial Government" were substitued for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] These words were substituted for the word "then" by Bom. 21 of 1938, s. 6 (*a*)

[4] The word "its" was substituted for the word "his" by the Adaptation of Indian Law Order in Council.

[5] The word "it" was substituted for the word "he" *ibid.*

[6] These words were inserted by Bom. 21 of 1938, s. 6 (*b*) (*i*).

[7] The words "*Official Gazette*" were substitued for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[8] The words "he may by a similar notification" were omitted by Bom. 21 of 1938. s. 6 (*b*) (*ii*).

**15.** (*1*) When a local authority has published a declaration of intention to make a scheme— Restrictions after declaration.

(*a*) no person shall within the area included in the scheme erect or proceed with any building or work [1][or remove, pull down or alter any building or part of a building or remove any earth, stone or material] unless such person has applied for and obtained the necessary permission which shall be contained in a commencement certificate granted by the local authority in the form prescribed ;

(*b*) the local authority on receipt of such application shall at once furnish the applicant with a written acknowledgment of its receipt, and after enquiry may either grant or refuse such certificate or grant it subject to such conditions [2][as the local authority may, with the previous approval of the Provincial Government, think fit to impose], [3][provided that if an Arbitrator has been appointed under section 29 the local authority shall not grant such certificate without obtaining the previous concurrence of such Arbitrator, unless such Arbitrator fails to communicate his decision in the matter to the local authority within two months from the date of the despatch of the application to him by the local authority. If] the local authority communicates no decision to the applicant within three months from the date of such acknowledgment he shall be deemed to have been granted such certificate ;

[4][(*c*) if any person contravenes the provisions contained in clause (*a*) or clause (*b*),—

(*i*) the local authority may direct such person by notice in writing to stop any work in progress, and after making enquiry in the prescribed manner, remove, pull down or alter any building or other work in the area included in the scheme, [5][in respect of which such contravention is made,] and

(*ii*) such person shall, on being convicted for such contravention, be liable to fine which may extend to Rs. 1,000 and in the case of a continuing contravention of the aforesaid provisions, he shall be liable to an additional fine which may extend to Rs. 10 for each day during which such contravention continues after conviction for the first such contravention ;]

(*d*) any expenses incurred by the local authority under clause (*c*) shall be a sum due to the local authority under this Act from the person in default ;

[6][(*e*) any diminution in the value of an original plot occasioned by any contravention of clause (*a*) or clause (*b*) shall, notwithstanding anything contained in section 16, 17 or 19 be taken into account in fixing the market value of such plot.]

(*2*) No person shall be entitled to compensation in respect of any damage, loss or injury resulting from any action taken by the local authority under the provisions of this section or of section 43, except in respect of a building or work begun or a contract entered into before the date on which the local authority published a declaration of intention to make a scheme, and only in so far as such building or

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[1] These words were inserted by Bom. 13 of 1920, s. 2 (*a*).

[2] These words were substituted for the words "as may be consistent with the scheme" by Bom. 14 of 1946, s. 3 (*a*) (*i*).

[3] These words were substituted for the words "scheme : but if" by Bom. 21 of 1938, s. 7 (*i*) (*a*).

[4] This clause was substituted for the original clause (*c*), *ibid.*, s. 7 (*i*) (*b*).

[5] These words were substituted for the words "which is such as to contravene the scheme" by Bom. 14 of 1946, s. 3 (*a*) (*ii*)

[6] This clause was added by Bom. 13 of 1920, s. 2 (*b*).

work has proceeded at the time of the publication of the declaration of intention to make a scheme :

[1][Provided that such claim to compensation in the excepted cases shall be subject to the conditions of any agreement entered into between such person and the local authority.]

(*3*) The restrictions imposed by this section shall cease to operate in the event of the [2][Provincial Government] refusing to sanction the making of a town-planning scheme, or in the event of the sanction of the [2][Provincial Government] for the making of such scheme lapsing, or in the event of the [2][Provincial Government] refusing to sanction the draft scheme [3][or the final scheme, or in the event of the withdrawal of the scheme under section 40A.]

Power to Provincial Government to suspend rule, bye-law, Act, etc.

[4][**15AA.** (*1*) When a local authority has published a declaration of intention to make a scheme, the Provincial Government may, by order published in the *Official Gazette*, suspend, to such extent only as may be necessary for the proper carrying out of the scheme any rule having the force of law, by-law, Act, or other provision which is in force in the area proposed to be included in the scheme and which the Provincial Legislature or the Provincial Government, or a local authority within the Province is competent to amend.

(*2*) Any order issued under sub-section (*1*) shall cease to operate in the event of the Provincial Government refusing to sanction the making of the town planning scheme, or in the event of the sanction of the Provincial Government for the making of such scheme lapsing, or in the event of the Provincial Government refusing to sanction the draft scheme or the final scheme, or in the event of the withdrawal of the scheme under section 40A, or in the event of the coming into force of the final scheme.]

Town planning schemes in built up areas.

[5][**15A.** (*1*) Whenever a local authority proposes to undertake the reclamation of a locality which is unhealthy or the laying out of a street or the construction of a park or of pleasure or recreation ground in virtue of the powers conferred upon it by any law for the time being in force in any area within its limits which is already built upon and the Provincial Government is of opinion that such reclamation, laying out or construction will specially benefit the owners of buildings and lands within such area, the Provincial Government may, by notification in the *Official Gazette*, apply to such area the provisions of Chapters III and IV with such modifications and adaptations as the Provincial Government may deem fit :

Provided that in calculating the amount of the increment under section 17 or in estimating the market value of a plot under section 19, the amount of such increment or such market value shall be calculated or estimated as at the date of the resolution of the local authority proposing the scheme under this section.

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[1] This proviso was added by Bom. 14 of 1946, s. 3 (*b*).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] These words, figures and letter were added by Bom. 21 of 1938, s. 7 (*ii*).

[4] Section 15AA was inserted by Bom. 14 of 1946, s. 4.

[5] New section 15A was inserted by Bom. 21 of 1938, s. 8.

# BOMBAY ACT No. I OF 1915.[1]

[THE BOMBAY TOWN PLANNING ACT, 1915.]

[*6th March 1915*]

Repealed in part and amended by Bom. 2 of 1919.
Amended by Bom. 13 of 1920 ;
" " " 16 of 1920.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 21 of 1938 ;
" " " 4 of 1942 ; *
" " " 14 of 1946 ;
" " " 55 of 1948 ;
" " " 69 of 1948 ;
" " " 13 of 1949 ;
" " " 59 of 1949 ;
" " " 8 of 1950.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 28 of 1950 ;
" " " 19 of 1951.

**An Act to provide for the making and execution of town planning schemes.**

WHEREAS it is expedient that the development of certain areas should be regulated with the general object of securing proper sanitary conditions, amenity and convenience to the persons living in such areas and in neighbouring areas ;

AND WHEREAS the previous sanction of the Governor General required by section 5 of the [2]Indian Councils Act, 1892, has been obtained for the passing of this Act ; It is hereby enacted as follows :—

## CHAPTER I.

### PRELIMINARY.

**1.** (*1*) This Act may be called the Bombay Town Planning Act, 1915. Short title and extent.

[3][(*2*) It shall extend to the whole of the [4][State] of Bombay except the City of Bombay.

(*3*) The [5][State] Government may, on a written application of the Municipal Corporation of the City of Bombay, extend by notification in the *Official Gazette*, this Act to the City of Bombay or any part thereof, from such date as may be appointed in this behalf :

Provided that such application has been made after it has been assented to by more than half the total number of the councillors of the Corporation.]

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1913, Part VII, page 845 ; for Report of Select Committee, *see ibid*, 1914, Part VII, page 510 ; and for Proceedings in Council *see ibid*, 1914, Part VII, page 78 ; *ibid*, 1915, page 11.

[2] *See* now the Government of India Act, 1935.

[3] Sub-sections (*2*) and (*3*) were substituted for the original sub-section (*2*) by Bom. 21 of 1938, s. 2.

[4] This word was substituted for the word " Province " by the Adaptation of Laws Order, 1950.

[5] This word was substituted for the word " Provincial ", *ibid*.

* This Act was repealed and s. 2 thereof was re-enacted by Bom. 23 of 1947, s. 2.

2. In this Act unless there is anything repugnant in the subject or context—

Interpretation-clause.

[1][(*1a*) "land" includes benefits to arise out of land and things attached to the earth or permanently fastened to any thing attached to the earth ;]

(*a*) "local authority" means a Municipality or, where there is no Municipality, a committee appointed for a notified area under the provisions of Chapter XIV of the Bombay District Municipal Act, 1901, as modified by this Act [2][or a panchayat established under the Bombay Village Panchayats Act, 1933 ;] Bom. III of 1901.

(*b*) "prescribed" means prescribed by rules made under this Act ;

(*c*) "owner" includes an owner in severalty, in common or joint ; and includes also an occupant as defined in clause (*16*) of section 3 of the Bombay Land Revenue Code, 1879 ; Bom. VI of 1933. Bom. V of 1879.

(*d*) "plot" means a continuous portion of land held in one ownership ; [3]* * *

[4][(*dd*) "preliminary scheme" means a scheme relating to a town planning prepared by the arbitrator under section 44B ;]

(*e*) "reconstituted plot" means a plot which is in any way altered by the making of a town-planning scheme [5]* * ;

*Explanation.*—"Altered" includes alteration of ownership.

(*f*) "scheme" includes a plan relating to a town-planning scheme.

3. A town-planning scheme may make provision for any of the following matters :—

Contents of planning scheme.

(*a*) the construction, diversion, alteration and stopping up of streets, roads and communications ;

(*b*) the construction, alteration, and removal of buildings, bridges and other structures ;

(*c*) the plotting out of land as building sites whether such land is intended to be used for building purposes in the immediate future or not ;

(*d*) the allotment or reservation of land for roads, open spaces, gardens, recreation grounds, schools, markets and public purposes of all kinds ;

(*e*) drainage inclusive of sewage and of surface drainage and sewage disposal ;

(*f*) lighting ;

(*g*) water supply ;

(*h*) the preservation of objects of historical interest or natural beauty and of buildings actually used for religious purposes or regarded by the public with special religious veneration ;

(*i*) the imposition of conditions and restrictions in regard to the open space to be maintained about buildings, the number, height and character of buildings allowed in specified areas and the purposes to which buildings or specified areas may or may not be appropriated ;

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[1] This clause was inserted by Bom. 19 of 1951, s. 2.

[2] These words and figures were added by Bom. 55 of 1948, s. 2.

[3] The words "other than land used, allotted or reserved for any public or municipal purpose" were deleted by Bom. 21 of 1938, s. 3 (*a*).

[4] This clause was inserted by Bom. 19 of 1951 s. 2.

[5] The words "otherwise than by the severance of land used, allotted or reserved for any public or municipal purpose" were deleted by Bom. 21 of 1938, s. 3 (*b*).

(*j*) the suspension so far as may be necessary for the proper carrying out of the scheme, of any rule having the force of law, bye-law, Act, or other provision [1]* * * which is in force in the area included in the scheme :

[2][Provided that it shall not be lawful to suspend in any such area any Act of Parliament [3][of the United Kingdom] or, [4][any Indian law relating to any of the matters enumerated in List I in the Seventh Schedule to the [5][Constitution] ; ].

(*k*) such other matter not inconsistent, with the objects of this Act as may be prescribed.

Disputed ownership.

**4.** (*1*) Where there is a disputed claim as to the ownership of any piece of land included in an area in respect of which [6][the local authority has declared, under section 9, its intention to make a town planning scheme] and any entry in the record-of-rights or mutation register relevant to such disputed claim is inaccurate or inconclusive, an enquiry may be held [7][on an application being made by the local authority or the Arbitrator at any time prior to the date on which the Arbitrator draws up the final scheme under clause 10 of section 30] by such officer as the [8][9][ State] Government] [10]* * * * may appoint for the purpose of deciding who shall be deemed to be the owner for the purposes of this Act.

(*2*) Such decision shall not be subject to appeal but it shall not operate as a bar to a regular suit.

(*3*) Such decision shall, in the event of a Civil Court passing a decree which is inconsistent therewith, be corrected, modified or rescinded in accordance with such decree as soon as practicable after such decree has been brought to the notice of the local authority either by the Civil Court or by some person affected by such decree.

Right of entry.

**5.** For the purpose of the preparation, making, or execution of any town-planning scheme any person authorized by the local authority or any public servant or person duly appointed or authorised under this Act may, after giving such notice as may be prescribed to the owner, occupier or other person interested in any land, enter upon, survey and mark out such land and do all acts necessary for such purpose.

Powers of local authority to borrow money and to make and execute a town-planning scheme.

**6.** (*1*) A local authority as defined in this Act shall be deemed to be a local authority as defined in the [11]Local Authorities Loans Act, 1914, for the purpose of borrowing money under that Act, and the making and execution of a town-planning scheme shall be deemed to be a work which such local authority is legally authorised to carry out.

IX of 1914.

(*2*) Any expenses incurred by a local authority under this Act or any town-planning scheme made thereunder may be defrayed out of its funds.

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[1] The words "under whatever authority made" were repealed by section 3 and Schedule II of the Bombay Repealing and Amending Act, 1919 (Bom. 2 of 1919).

[2] This proviso was added by section 2 and Schedule I, Part II, *ibid.*

[3] These words were inserted by the Adaptation of Laws Order, 1950.

[4] These words substituted for the words "without the sanction of the Governor-General, any Act of the Governor-General in Council" by the Adaptation of Indian Laws Order in Council.

[5] This word was substituted for the words and figures "Government of India Act, 1935" by the Adaptation of Laws Order, 1950.

[6] These words and figures were substituted for the words "any of the provisions of this Act are to be applied" by Bom. 21 of 1938, s. 4 (*1*).

[7] These words and figures were added, *ibid*, s. 4 (*2*).

[8] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[9] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[10] The words "in any area for which a municipal corporation is constituted under any enactment or the Commissioner elsewhere" were deleted by Bom. 28 of 1950, s. 4, Schedule.

[11] Central Acts.

Notified areas.

**7.** Notwithstanding anything contained in sub-section (*3*) of section 187 of the Bombay District Municipal Act, 1901, the [1][2][State] Government] may declare any specified area, for which it is proposed to make a town-planning scheme, to be a notified area. Bom. III of 1901.

## CHAPTER II.

### DECLARATION OF INTENTION TO MAKE A SCHEME AND PREPARATION OF DRAFT SCHEME.

Land in respect of which a town-planning scheme may be made.

**8.** (*1*) A town-planning scheme may be made in accordance with the provisions of this Act in respect of any land which is in course of development or is likely to be used for building purposes.

(*2*) Where it appears to the [1][2][State] Government] that a piece of land already built upon, or a piece of land not likely to be used for building purposes is so situated with respect to any land which is in course of development or likely to be used for building purposes that it ought to be included in any town-planning scheme intended to be made with respect to the last-mentioned land, the [1][2][State] Government] may sanction the making of a scheme including such piece of land as aforesaid, and providing for the demolition or alteration of any building thereon so far as may be necessary for carrying the scheme into effect.

(*3*) The expression "land likely to be used for building purposes" shall include any land likely to be used as or for the purpose of providing, open spaces, roads, streets, parks, pleasure or recreation grounds, or for the purpose of executing any work upon or under the land incidental to a town-planning scheme, whether in the nature of a building work or not, and the decision of the [1][2][State] Government] as to whether land is likely to be used for building purposes or not shall be final.

No town-planning schemes for areas for which housing schemes sanctioned under Bom. LXIX of 1948.

[3][**8A.** Notwithstanding anything contained in this Act, no town-planning scheme shall be made for any area for which a housing scheme has been sanctioned under the provisions of the Bombay Housing Board Act, 1948.] Bom. LXIX of 1948.

Powers of a local authority to resolve on a declaration of intention to make a scheme and of the [2] [State] Government to sanction such declaration.

**9.** (*1*) The local authority having jurisdiction over any such land as is referred to in section 8 may by resolution declare its intention to make a town-planning scheme in respect of the whole or any part of such land and of any land which is in the vicinity of such land, but which is not included [4][in the area over which any other local authority has jurisdiction] provided that for the making of such scheme the sanction of tne [1][2][State] Government] shall be necessary.

(*2*) Within twenty-one days from the date of such declaration (hereinafter referred to as a declaration of intention to make a scheme), the local authority shall despatch a copy thereof for publication in the [5][*Official Gazette*] and shall publish it in the prescribed manner and shall apply to the [1][2][State] Government] for sanction for the making of such scheme.

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[1] The words "Provincial Government" were substituted for the words "Governor-in-Council" by the Adaptation of Indian Laws Order in Council.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] This section was inserted by Bom. 69 of 1948, s. 75, Sch.

[4] These words were substituted for the original by Bom. 55 of 1948, s. 3.

[5] The word "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

(*3*) With its application for such sanction the local authority shall send to the [1][[2][State] Government] a plan showing the area which it proposes to include in the town-planning scheme and the surrounding lands.

(*4*) A copy of such plan shall be open to the inspection of the public at all reasonable hours at the head office of the local authority.

(*5*) If within one month from the date of such publication in the [3][*Official Gazette*] any person likely to be affected by such scheme communicates in writing to the [1][[2][State] Government] any objection or suggestion relating to such scheme the [1][[2][State] Government] shall consider such objection or suggestion.

(*6*) After receiving such application and after making such inquiry as [4][it] may think fit, the [1][[2][State] Government] may, by notification in the [3][*Official Gazette*], either sanction the making of such scheme with or without modifications and subject to such conditions as [4][it] may think fit to impose, or [4][it] may by a similar notification refuse to give sanction.

Preparation and publication of draft scheme.

**10.** (*1*) Within twelve months from the date of the notification sanctioning the making of a town-planning scheme the local authority shall in consultation with the owners prepare, and publish in the prescribed manner, a draft scheme for the area in respect of which sanction has been given.

[5][Provided that on application made by the local authority in that behalf, the [2][State] Government may from time to time, by notification in the *Official Gazette*, extend the said period of twelve months, but the aggregate period of such extensions shall not exceed twelve months.]

(*2*) If such publication is not made by the local authority within [6][the period specified in sub-section (*1*), or where the said period is extended under the proviso thereto, such extended period], the [1][[2][State] Government] [7]* * * may in consultation with the owners prepare, and publish in the prescribed manner, a draft scheme for the area in respect of which sanction has been given within a further period of nine months.

Lapsing of sanction.

(*3*) If such publication is not made by the [1][[2][State] Government] or the Commissioner, as the case may be, within the further period specified in sub-section (*3*), the sanction of the [1][[2][State] Government] for the making of such town planning scheme shall lapse, and until a period of three years has elapsed from the date of such sanction it shall not be competent to the local authority to apply for fresh sanction for the making of any town-planning scheme for the same area or for any part of it.

Contents of draft scheme.

**11.** The draft scheme shall contain the following particulars :—

(*a*) the area, ownership and tenure of each original plot;

(*b*) the land allotted or reserved under clause (*d*) of section 3 with a general indication of the uses to which such land is to be put [8][and the terms and conditions subject to which such land is to be put to such uses] ;

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[4] The word "it" was substituted for the word "he", *ibid.*

[5] This proviso was added by Bom. 14 of 1946, s. 2 (*i*).

[6] These words, figure and brackets were substituted for the words "twelve months from the date of such notification" *ibid*, s. 2 (*ii*).

[7] The words "in any area for which a municipal corporation is constituted under any enactment or the Commissioner elsewhere" deleted by Bom. 28 of 1950, s. 4, Schedule.

[8] These words were added by Bom. 21 of 1938, s. 5.

(*c*) the extent to which it is proposed to alter the boundaries of original plots;

(*d*) an estimate of the net cost of the scheme to be borne by the local authority;

(*e*) a full description of all details of the scheme under such clauses of section 3 as may be applicable; and

(*f*) any other prescribed particluars.

Reconstituted plots.

**12.** (*1*) In the draft scheme the size and shape of every reconstituted plot shall be so determined as to render it, so far as may be, suitable for building purposes.

(*2*) In order to render original plots more suitable for building purposes the draft scheme may contain proposals—

(*a*) to form a reconstituted plot by the alteration of the boundaries of an original plot,

(*b*) to provide with the consent of the owners that two or more original plots each of which is held in ownership in severality or in joint onwership shall hereafter, with or without alteration of boundaries, be held in ownership in common as a reconstituted plot,

(*c*) to allot a plot to any owner dispossessed of land in furtherance of the scheme, and

(*d*) to transfer the ownership of a plot from one person to another.

Objection to the draft scheme to be considered.

**13.** If within one month from the date of publication of the draft scheme any person affected by such scheme communicates in writing to the local authority any objection relating to such scheme the local authority shall consider such objection and may, at any time before submitting the draft scheme to the [1][[2][State Government] as hereinafter provided, modify such scheme as it thinks fit.

Power of the [2][State] Government to sanction a draft scheme.

**14.** (*1*) The local authority shall [3][within the period prescribed] submit the draft scheme with any modifications which it may have made therein together with the objections which may have been communicated to it to the [1][[2][State] Government] and shall at the same time aplpy for [4][its] sanction.

(*2*) After receiving such application and after making such inquiry as [5][it] may think fit, the [1][[2][State] Government] may [6][within the period prescribed] by notification in the [7][*Official Gazette*] either sanction such scheme with or without modifications and subject to such conditions as [5][it] may think fit to impose, or [8]* * * refuse to give sanction.

(*3*) If the [1][[2][State] Government] sanctions such scheme [5][it] shall in such notification state at what place and time the draft scheme shall be open to the inspection of the public.

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[1] The words "Provincial Government" were substitued for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] These words were substituted for the word "then" by Bom. 21 of 1938, s. 6 (*a*)

[4] The word "its" was substituted for the word "his" by the Adaptation of Indian Law Order in Council.

[5] The word "it" was substituted for the word "he" *ibid.*

[6] These words were inserted by Bom. 21 of 1938, s. 6 (*b*) (*i*).

[7] The words "*Official Gazette*" were substitued for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[8] The words "he may by a similar notification" were omitted by Bom. 21 of 1938. s. 6 (*b*) (*ii*).

**15.** (*1*) When a local authority has published a declaration of intention to make a scheme— Restrictions after declaration.

(*a*) no person shall within the area included in the scheme erect or proceed with any building or work [1][or remove, pull down or alter any building or part of a building or remove any earth, stone or material] unless such person has applied for and obtained the necessary permission which shall be contained in a commencement certificate granted by the local authority in the form prescribed ;

(*b*) the local authority on receipt of such application shall at once furnish the applicant with a written acknowledgment of its receipt, and after enquiry may either grant or refuse such certificate or grant it subject to such conditions [2][as the local authority may, with the previous approval of the Provincial Government, think fit to impose], [3][provided that if an Arbitrator has been appointed under section 29 the local authority shall not grant such certificate without obtaining the previous concurrence of such Arbitrator, unless such Arbitrator fails to communicate his decision in the matter to the local authority within two months from the date of the despatch of the application to him by the local authority. If] the local authority communicates no decision to the applicant within three months from the date of such acknowledgment he shall be deemed to have been granted such certificate ;

[4][ (*c*) if any person contravenes the provisions contained in clause (*a*) or clause (*b*),—

(*i*) the local authority may direct such person by notice in writing to stop any work in progress, and after making enquiry in the prescribed manner, remove, pull down or alter any building or other work in the area included in the scheme, [5][in respect of which such contravention is made,] and

(*ii*) such person shall, on being convicted for such contravention, be liable to fine which may extend to Rs. 1,000 and in the case of a continuing contravention of the aforesaid provisions, he shall be liable to an additional fine which may extend to Rs. 10 for each day during which such contravention continues after conviction for the first such contravention ;]

(*d*) any expenses incurred by the local authority under clause (*c*) shall be a sum due to the local authority under this Act from the person in default ;

[6][ (*e*) any diminution in the value of an original plot occasioned by any contravention of clause (*a*) or clause (*b*) shall, notwithstanding anything contained in section 16, 17 or 19 be taken into account in fixing the market value of such plot.]

(*2*) No person shall be entitled to compensation in respect of any damage, loss or injury resulting from any action taken by the local authority under the provisions of this section or of section 43, except in respect of a building or work begun or a contract entered into before the date on which the local authority published a declaration of intention to make a scheme, and only in so far as such building or

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[1] These words were inserted by Bom. 13 of 1920, s. 2 (*a*).

[2] These words were substituted for the words " as may be consistent with the scheme " by Bom. 14 of 1946, s. 3 (*a*) (*i*).

[3] These words were substituted for the words " scheme : but if " by Bom. 21 of 1938, s. 7 (*i*) (*a*).

[4] This clause was substituted for the original clause (*c*), *ibid.*, s. 7 (*i*) (*b*).

[5] These words were substituted for the words " which is such as to contravene the scheme " by Bom. 14 of 1946, s. 3 (*a*) (*ii*)

[6] This clause was added by Bom. 13 of 1920, s. 2 (*b*).

work has proceeded at the time of the publication of the declaration of intention to make a scheme :

[1][Provided that such claim to compensation in the excepted cases shall be subject to the conditions of any agreement entered into between such person and the local authority.]

(*3*) The restrictions imposed by this section shall cease to operate in the event of the [2][Provincial Government] refusing to sanction the making of a town-planning scheme, or in the event of the sanction of the [2][Provincial Government] for the making of such scheme lapsing, or in the event of the [2][Provincial Government] refusing to sanction the draft scheme [3][or the final scheme, or in the event of the withdrawal of the scheme under section 40A.]

Power to Provincial Government to suspend rule, bye-law, Act, etc.

[4][**15AA.** (*1*) When a local authority has published a declaration of intention to make a scheme, the Provincial Government may, by order published in the *Official Gazette*, suspend, to such extent only as may be necessary for the proper carrying out of the scheme any rule having the force of law, by-law, Act, or other provision which is in force in the area proposed to be included in the scheme and which the Provincial Legislature or the Provincial Government, or a local authority within the Province is competent to amend.

(*2*) Any order issued under sub-section (*1*) shall cease to operate in the event of the Provincial Government refusing to sanction the making of the town planning scheme, or in the event of the sanction of the Provincial Government for the making of such scheme lapsing, or in the event of the Provincial Government refusing to sanction the draft scheme or the final scheme, or in the event of the withdrawal of the scheme under section 40A, or in the event of the coming into force of the final scheme.]

Town planning schemes in built up areas.

[5][**15A.** (*1*) Whenever a local authority proposes to undertake the reclamation of a locality which is unhealthy or the laying out of a street or the construction of a park or of pleasure or recreation ground in virtue of the powers conferred upon it by any law for the time being in force in any area within its limits which is already built upon and the Provincial Government is of opinion that such reclamation, laying out or construction will specially benefit the owners of buildings and lands within such area, the Provincial Government may, by notification in the *Official Gazette*, apply to such area the provisions of Chapters III and IV with such modifications and adaptations as the Provincial Government may deem fit :

Provided that in calculating the amount of the increment under section 17 or in estimating the market value of a plot under section 19, the amount of such increment or such market value shall be calculated or estimated as at the date of the resolution of the local authority proposing the scheme under this section.

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[1] This proviso was added by Bom. 14 of 1946, s. 3 (*b*).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] These words, figures and letter were added by Bom. 21 of 1938, s. 7 (*ii*).

[4] Section 15AA was inserted by Bom. 14 of 1946, s. 4.

[5] New section 15A was inserted by Bom. 21 of 1938, s. 8.

(*2*) The Provincial Government shall, before issuing a notification under sub-section (*1*), give the owners or occupiers of buildings and lands in the area affected, an opportunity of showing cause why such notification should not be issued.]

## CHAPTER III.

### FINANCE.

Costs of the scheme.

**16.** (*1*) The costs of a town-planning scheme shall include—

(*a*) all sums payable by the local authority under the provisions of this Act which are not specifically excluded from the costs of the scheme;

(*b*) all sums spent or estimated to be spent by the local authority in the making and in the execution of the scheme;

[1][(*bb*) all sums payable as compensation for land allotted or reserved for any public or municipal purpose which is solely beneficial to the owners or residents within the area of the scheme;

(*bc*) such portion of the sums, payable as compensation for land allotted or reserved for any public or municipal purpose which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public, as is attributable to the benefit accruing to the owners or residents within the area of the scheme from such allotment or reservation];

(*c*) all legal expenses of the local authority incurred in the making and in the execution of the scheme; and

(*d*) any amount by which the total of the values of the original plots exceeds the total of the values of the plots included in the final scheme, each of such plots being estimated at its market value at the date of the declaration of intention to make a scheme with all the buildings and works thereon at that date and without reference to improvements contemplated in the scheme other than improvements due to the alteration of its boundaries.

(*2*) If in any case the total of the values of the plots included in the final scheme exceeds the total of the values of the original plots, each of such plots being estimated in the manner provided in clause (*d*) of sub-section (*1*), then the amount of such excess shall be deducted in arriving at the costs of the scheme, as defined in sub-section (*1*).

Calculation of increment.

**17.** [2][For the purposes of this Act the increments shall be deemed to be the amount by which at the date of the declaration of intention to make a scheme the market value of a plot included in the final scheme estimated on the assumption that the scheme has been completed would exceed at the same date the market value of the same plot estimated without reference to improvements contemplated in the scheme :]

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[1] These clauses were inserted by Bom. 21 of 1938, s. 9.

[2] This paragraph was substituted by Bom. 13 of 1920, s. 3.

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Provided that in estimating such values the value of buildings or other works erected or in the course of erection on such plot shall not be taken into consideration.

Contribution towards the costs of the scheme.

**18.** (*1*) The costs of the scheme shall be met wholly or in part by a contribution to be levied by the local authority on each plot included in the final scheme calculated in proportion to the increment which is estimated to accrue in respect of such plot by the Tribunal of Arbitration:

Provided that—

(*i*) no such contribution shall exceed half the increment estimated by the Tribunal of Arbitration to accrue in respect of such plot; [1]*

(*ii*) where a plot is subject to a mortgage with possession or to a lease, the Tribunal of Arbitration shall determine in what proportion the mortgagee or lessee on the one hand and the mortgagor or lessor on the other hand shall pay such contribution;

[2][(*iii*) no such contribution shall be levied on a plot used, allotted or reserved for a public or municipal purpose which is solely for the benefit of owners or residents within the area of the scheme; and

(*iv*) the contribution levied on a plot used, allotted or reserved for a public or municipal purpose which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public shall be calculated in proportion to the benefit estimated to accrue to the general public from such use, allotment or reservation.]

Owner primarily liable for contribution.

(*2*) The owner of each plot included in the final scheme shall be primarily liable for the payment of the contribution leviable in respect of such plot.

Certain amount to be added to or deducted from the contribution leviable from a person.

**19.** The amount by which the total value of the plots included in final scheme with all the buildings and works thereon allotted to a person falls short of or exceeds the total value of the original plots with all the buildings and works thereon of such person shall be deducted from or added to, as the case may be, the contributions leviable from such person, each of such plots being estimated at its market value at the date of the declaration of intention to make a scheme and without reference to improvements contemplated in the scheme other than improvements due to the alteration of its boundaries.

Transfer of right from original to reconstituted plot, or extinction of such right.

**20.** Any right in an original plot which in the opinion of the arbitrator is capable of being transferred wholly or in part, without prejudice to the making of a town-planning scheme, to a reconstituted plot shall be so transferred and any right in an original plot which in the opinion of the arbitrator is not capable of being so transferred shall be extinguished:

Provided that an agricultural lease shall not be transferred from an original plot to a reconstituted plot without the consent of all the parties to such lease.

Compensation in respect of property or right injuriously affected by scheme.

**21.** The owner of any property or right which is injuriously affected by the making of a town-planning scheme shall, if he makes a claim before the arbitrator within the prescribed time be entitled to obtain compensation in respect thereof from the local authority or from any person benefited or partly from the local authority and partly from such person, as the Tribunal of Arbitration may in each case determine:

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[1] The word "and" was omitted by Bom. 21 of 1938, s. 10 (*i*).

[2] These provisos were inserted, *ibid.*, s. 10 (*ii*).

Provided that the value of such property or right shall be held to be its market value at the date of the declaration of intention to make a scheme without reference to improvements contemplated in the scheme.

Exclusion or limitation of compensation in certain cases.

**22.** (*1*) Where property or a private right of any sort is alleged to be injuriously affected by reason of any provisions contained in a town-planning scheme, no compensation shall be paid in respect thereof if or in so far as the provisions are such as would have been enforceable without compensation under any rule having the force of law, by-law or Act in force at the time.

(*2*) Property or a private right of any sort shall not be deemed to be injuriously affected by reason of any provisions inserted in a town-planning scheme, which, with a view to securing the amenity of the area included in such scheme or any part thereof, impose any conditions and restrictions in regard to any of the matters specified in clause (*i*) of section 3.

Provision for case in which amount payable to owner exceeds amount due from him.

**23.** If the owner of an original plot is not provided with a plot in the final scheme, or if the contribution to be levied from him under section 18 is less than the total amount to be deducted therefrom under any of the provisions of this Act, the net amount of his loss shall be payable to him by the local authority in cash, or in such other way as may be agreed upon by the parties.

Provision for case in which value of developed plot is less than amount payable by owner.

**24.** (*1*) If from any cause the total amount which would be due to the local authority under the provisions of this Act from the owner of a plot to be included in the final scheme exceeds the value of such plot estimated on the assumption that the scheme has been completed, the arbitrator shall, at the request of the local authority, direct the owner of such plot to make payment to the local authority of the amount of such excess.

(*2*) If such owner fails to make such payment within the prescribed period, the arbitrator shall, if the local authority so requests, acquire the original plot of such defaulter and apportion the compensation among the owner and other persons interested in the plot on payment by the local authority of the value of such plot estimated at its market value at the date of the declaration of intention to make a scheme and without reference to improvements contemplated in the scheme ; and thereupon the plot included in the final scheme shall vest absolutely in the local authority, free from all encumbrances but subject to the provisions of this Act :

Provided that the payment made by the local authority on account of the value of the original plot shall not be included in the costs of the scheme.

Payment by adjustment of account.

**25.** All payments due to be made to any person by the local authority under this Act shall as far as possible, be made by an adjustment in such person's account with the local authority in respect of the plot concerned or of any other plot in which he has an interest and failing such adjustment shall be paid in cash or in such other way as may be agreed upon by the parties.

Payment of net amount due to local authority.

**26.** (*1*) The net amount payable under the provisions of this Act by the owner of a plot included in the final scheme may at the option of the contributor be paid in one sum or such instalments including charges for interest as shall be fixed by the local authority with the sanction of the [1][[2][State] Government] [3]* * *

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "in any area for which a municipal corporation is constituted under any enactment or the Commissioner elsewhere" were deleted by Bom. 28 of 1950, s. 4, Schedule.

(*2*) Where more than one plot included in the final scheme is in the same ownership the net amount payable by such owner under the provisions of this Act shall be distributed over his several plots in proportion to the increment which is estimated to accrue in respect of each plot unless the owner and the local authority agree to a diffetent method of distribution.

Power of local authority to make agreements.

**27.** (*1*) A local authority shall be competent to make any agreement with any person in respect of any matter which is to be provided for in a town-planning scheme, subject to the power of the [1][[2][State] Government] to modify or disallow such agreement and, unless it is otherwise expressly provided therein, such agreement shall take effect on and after the day on which the town-planning scheme comes into force.

(*2*) Such agreement shall not in any way affect the duties of the arbitrator or of the Tribunal of Arbitration as described in Chapter IV or the rights of third parties, but it shall be binding on the parties to the agreement notwithstanding any decision that may be passed by the arbitrator or by the Tribunal of Arbitration :

Provided that if the agreement be modified by Government, either party shall have the option of avoiding it if he so elects.

Recovery of arrears.

**28.** Any sum due to the local authority under this Act which is not paid on the day when it becomes due shall be recovered by the Collector, according to law and under the rules for the time being in force for the recovery of arrears of land-revenue, on application being made to him by the local authority.

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## CHAPTER IV.

### The Arbitrator and the Tribunal of Arbitration.

Appointment of arbitrator.

**29.** After a draft scheme has been sanctioned the [1][[2][State] Government] shall appoint an arbitrator with sufficient establishment whose duties shall be as hereinafter provided.

Duties of the arbitrator.

**30.** In accordance with the prescribed procedure the arbitrator shall—

(*1*) after notice given by him in the prescribed manner define and [3]* * * demarcate the areas allotted to, or reserved for, [4][public or municipal purposes] and the reconstituted plots ;

(*2*) after notice given by him in the prescribed manner determine, in a case in which a reconstituted plot is to be allotted to persons in ownership in common, the shares of such persons ;

(*3*) fix the difference between the total of the values of the orignnal plots and the total of the values of the plots included in the final scheme, in accordance with the provisions contained in clause (*d*) of sub-section (*1*) of section 16 ;

[5][(*3A*) determine whether the areas used, allotted or reserved for public or municipal purposes are beneficial wholly or partly to the owners or residents within the area of the scheme ;]

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[1] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[2] The word " State " was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] The words " where it is in his opinion necessary " were omitted by Bom. 21 of 1938, s. 11 (*a*) (*i*)

[4] These words were substituted for the words " the local authority ", *ibid*, s. 11 (*a*) (*ii*).

[5] This clause was inserted, *ibid*, s. 11 (*b*).

(*3B*) estimate the portion of the sums, payable as compensation for each plot used, allotted or reserved for a public or municipal purpose which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public, which shall be included in the costs of the scheme;

(*3C*) calculate the contribution to be levied on each plot used, allotted or reserved for a public or municipal purpose which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public in accordance with the provisions contained in proviso (*iv*) to section 18;

(*3D*) determine the amount of exemption, if any, from the payment of contribution that may be granted in respect of plots exclusively occupied for religious or charitable purposes;] .

(*4*) estimate the increment to accrue in respect of each plot included in the final scheme, in accordance with the provisions contained in section 17;

(*5*) calculate the proportion in which the increment of the plots included in the final scheme shall be liable to contribution to the costs of the scheme, in accordance with the provisions contained in section 18;

(*6*) calculate the contribution to be levied on each plot included in the final scheme;

(*7*) determine the amount to be deducted from or added to, as the case may be, the contributions leviable from a person, in accordance with the provisions contained in section 19;

(*8*) provide for the total or partial transfer of any right in an original plot to a reconstituted plot or provide for the extinction of any right in an original plot, in accordance with the provisions contained in section 20;

(*9*) estimate in reference to claims made before him, after notice given by him in the prescribed manner, the compensation to be paid to the owner of any property or right injuriously affected by the making of a town-planning scheme, in accordance with the provisions contained in section 21 and subject to the provisions contained in section 22;

(*10*) draw up in the prescribed form the final scheme in accordance with the draft scheme:

provided that—

(*i*) he may make variations from the draft scheme;

(*ii*) any variation estimated by him to involve an increase of ten per centum in the costs of the scheme as described in section 16 shall require the sanction of the [1][Provincial Government]:

Provided further that he shall make no substantial variation without the consent of the local authority and without hearing any objections that may be raised by the owners concerned; and that in the case of any substantial variation made by him the owners concerned shall have the right of appeal to the [1][Provincial Government].

Certain decisions of the arbitrator shall be final.

**31.** Except in matters arising out of clauses [2][(*3A*), (*3B*), (*3C*)], (*4*), (*5*), (*6*) and (*9*) of section 30, and subject to the provisos contained in clause (*10*) of section 30, every decision of the arbitrator shall be final and conclusive and binding on all persons.

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] These figures, letters and brackets were inserted by Bom. 21 of 1938, s. 12.

Arbitrator shall make proposals in certain matters.

**32.** In matters arising out of clauses [1][(*3A*), (*3B*), (*3C*),] (*4*), (*5*), (*6*) and (*9*) of section 30, the arbitrator shall [2][determine] estimate or calculate what is required by such clauses to be [2][determined] estimated or calculated and shall forthwith make proposals on all such matters to the President of the Tribunal of Arbitration for the decision of such Tribunal.

Constitution of the Tribunal of Arbitration.

**33.** (*1*) The Tribunal of Arbitration shall consist of a President and two Assessors.

(*2*) The President shall, in [3][Greater Bombay], be a person who holds or has held office as a Judge of the High Court of Judicature, to be appointed by the Chief Justice, [4]* * * * * * * * * and elsewhere the District Judge.

[5][(*3*) The Assessors shall be appointed by the President and shall be such persons as in his opinion are impartial.]

[6]* * *

(*5*) The President and the Assessor shall be appointed members of the Tribunal of Arbitration for such period as may be required by such Tribunal to decide in connection with a particular town-planning scheme all matters arising out of clauses [1][(*3A*), (*3B*), (*3C*),] (*4*), (*5*), (*6*) and (*9*) of section 30.

(*6*) The [7][Provincial Government] may, if [8][it] thinks fit, remove for inability or misconduct or any other good and sufficient reason [9][an Assessor] appointed under sub-section (*3*) [10]* * *

(*7*) If any member of the Tribunal of Arbitration is removed or dies or refuses or neglects to act or becomes incapable of acting, the authority who appointed such member shall appoint forthwith a fit person to take the place of such member.

Arbitrator to assist Tribunal in advisory capacity and his remuneration.

[11][**33A.** (*1*) The Arbitrator shall be present at the proceedings before the Tribunal of Arbitration. He shall not be required to give evidence in such proceedings, but the President may require him to assist the Tribunal in an advisory capacity.

(*2*) When the Arbitrator is required under sub-section (*1*) to assist the Tribunal he shall, save where he is a salaried officer of Government, be entitled to such fees as Government may from time to time determine.]

Place where the Tribunal may sit.

**34.** The Tribunal of Arbitration may sit either at the Headquarters of the President or at any other place, within the local limits of his jurisdiction, which he may consider convenient for the decision of any matter before such Tribunal.

Right to appear by recognised agent.

**35.** Every party to any proceeding before the Tribunal of Arbitration shall be entitled to appear either in person or by his recognised agent.

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[1] These figures, letters and brackets were inserted by Bom. 21 of 1938, ss. 13 (*i*) and 14 (*c*).
[2] This word was inserted., *ibid.*, s. 13 (*ii*).
[3] These words were substituted for the original by Bom. 55 of 1948, s. 4.
[4] The words deleted by Bom. 55 of 1948, s. 2, have been omitted.
[5] Sub-section (*3*) was substituted for the original., *ibid.*, s. 14 (*a*).
[6] Sub-section (*4*) was deleted, *ibid.*, s. 14 (*b*).
[7] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.
[8] The word "it" was substituted for the word "he", *ibid.*
[9] These words were substituted for the words "the Assessor" by Bom. 21 of 1938, s. 14 (*d*) (*i*).
[10] The words "or the Arbitrator" were omitted, *ibid.*, s. 14 (*d*) (*ii*).
[11] This section was inserted, *ibid.*, s. 15.

**36.** All questions of law and procedure shall be decided by the President. All other questions shall be decided by the President and the two Assessors or by the majority of them. Decision of questions of law and procedure and other questions.

**37.** (*1*) After making such enquiry as the President may think fit the Tribunal of Arbitration may accept, modify, vary, or reject the proposals of the arbitrator and shall decide all matters arising out of clauses [1][(*3A*), (*3B*), (*3C*)], (*4*), (*5*), (*6*) and (*9*) of section 30. Powers of the Tribunal to decide matters finally.

(*2*) Every decision of the Tribunal of Aribtration shall be final and conclusive and binding on all persons.

**38.** Nothing contained in this Act shall be deemed to constitute the Tribunal of Arbitration to be a Court. Tribunal not a Court.

**39.** (*1*) [2]* * * The President of the Tribunal of Arbitration, and the [3][Assessors] shall, save where they are salaried [4][Government officers], be entitled to such remuneration, either by way of monthly salary or by way of fees or partly in one way and partly in the other, as the [5][[6][State] Government] may from time to time determine. Remuneration of arbitrator and Assessor and payment of incidental expenses of Tribunal.

(*2*) The salary of [7]* * * a President of the Tribunal of Arbitration or an Assessor who is a salaried [8][Government officer], and any remuneration payable under sub-section (*1*) [9][and fees payable to an Arbitrator under sub-section (*2*) of section 33A] and all expenses incidental to the working of the Tribunal of Arbitration shall, unless the [5][[6][State] Government] otherwise determines, be defrayed out of the funds of the local authority and shall be added to the costs of the scheme.

**40.** (*1*) After the Tribunal of Arbitration has decided all matters arising out of clauses [10][(*3A*), (*3B*), (*3C*),] (*4*), (*5*), (*6*) and (*9*) of section 30, the arbitrator shall forward the final scheme through the local authority to the [5][[6][State] Government]. [11][On receipt of the final scheme, the [6][State] Government may, by notification in the *Official Gazette*, sanction the scheme or refuse to give such sanction, provided that in sanctioning the scheme the [6][State] Government may make such modifications as may in its opinion be necessary for the purposes of correcting an error, irregularity or informality.] Final scheme.

(*2*) [12][If Government sanctions such scheme, it shall be stated in such notification] where the final scheme is open to the inspection of the public and the price at which copies may be obtained and a date not earlier than one month after the publication of such notification shall be fixed as the date on which all liabilities created by the scheme shall take effect and the final scheme shall come into force :

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[1] These figures, letters and brackets were inserted by Bom. 21 of 1938, s. 16.
[2] The words "The arbitrator" were omitted, *ibid*, s. 17 (*i*) (*a*).
[3] This word was substituted for the word "Assessor", *ibid*, s. 17 (*b*).
[4] The words "Government officers" were substituted for the words "servants of the Crown" by the Adaptation of Laws Order, 1950.
[5] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.
[6] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[7] The words "an arbitrator" were omitted by Bom. 21 of 1938, s. 17 (*ii*) (*a*).
[8] These words were substituted for the words "servant of the Crown" by the Adaptation of Laws Order, 1950.
[9] These words, brackets, figures and letter were inserted by Bom. 21 of 1938, s. 17 (*ii*) (*b*).
[10] These figures, letters and brackets were inserted by Bom. 21 of 1938, s. 18 (*i*) (*a*).
[11] These words were substituted for the original words, *ibid*, s. 18 (*i*) (*b*).
[12] These words were substituted for the words "In such notification, it shall be stated", *ibid*, s. 18 (*ii*) (*a*).

[1][Provided that the [2][State] Government may from time to time postpone such date by such period not exceeding three months at a time as it thinks fit.]

(*3*) On and after the date fixed in such notification a town planning scheme shall have effect as if it were enacted in this Act.

Withdrawal of a scheme.

[3][**40A.** If at any time a representation is made to the Arbitrator by the local authority and a majority of the owners or the residents in the area that the scheme should be withdrawn, the Arbitrator shall, after inviting from all persons interested in the scheme objections to such representation, forward such representation, together with the objections, if any, to the [2][State] Government. After making such enquiry as it may think fit, the [2][State] Government may, if the scheme has not already come into force, by notification in the *Official Gazette*, direct that the scheme shall be withdrawn and upon such withdrawal no further proceedings shall be taken in regard to such scheme.]

Effect of final scheme.

**41.** On the day on which the final scheme comes into force—

(*a*) all lands required by the local authority shall, unless it is otherwise determined in such scheme, vest absolutely in the local authority free from all encumbrances ;

(*b*) all rights in original plots which have been reconstituted shall determine and the reconstituted plots shall become subject to the rights settled by the arbitrator.

Power of local authority to evict summarily.

**42.** On and after the day on which the final scheme comes into force any person continuing to occupy any land which he is not entitled to occupy under the final scheme may, in accordance with the prescribed procedure, be summarily evicted by the local authority.

Power to enforce scheme.

**43.** (*1*) On and after the day on which the final scheme comes into force the local authority may after giving the prescribed notice and in accordance with the provisions of the scheme—

(*a*) remove,pull down, or alter any building or other work in the area included in the scheme which is such as to contravene the scheme or in the erection or carrying out of which any provision of the scheme has not been complied with ;

(*b*) execute any work which it is the duty of any person to execute under the scheme in any case where it appears to the local authority that delay in the execution of the work would prejudice the efficient operation of the scheme.

(*2*) Any expenses incurred by a local authority under this section may be recovered from the persons in default in the manner hereinbefore provided for the recovery of sums due to the local authority under the provisions of this Act.

(*3*) If any question arises as to whether any building or wotk contravenes a town-planning scheme, or whether any provision of a town-planning scheme is not complied with in the erection or carrying out of any such building or work, that question shall be referred to the [4][[2][State] Government] [5]* * * and [6][its [7]* *] decision shall be final and conclusive and binding on all persons.

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[1] This proviso was inserted by Bom. 21 of 1938, s. 18 (*ii*) (*b*).

[2] The word " State " was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] This section was inserted, by Bom. 21 of 1938, s. 19.

[4] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[5] The words " in the Greater Bombay or the Commissioner elsewhere " were deleted by Bom. 28 of 1950, s. 4, Schedule.

[6] The words " its or his " were substituted for the word " his " by the Adaptation of Indian Laws Order in Council.

[7] The words " or his " were omitted by Bom. 28 of 1950, Sch.

**44.** For the purposes of this Act an officer appointed under sub-section (*1*) of section 4, an arbitrator or a Tribunal of Arbitration may summon and enforce the attendance of witnesses including the parties interested or any of them and compel them to give evidence and compel the production of documents by the same means and, as far as possible, in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908. V of 1908. Power to compel attendance of witnesses.

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## [1][CHAPTER IV-A.

### SPLITTING OF SCHEMES INTO SECTIONS AND PRELIMINARY SCHEMES.

**44A.** After an arbitrator has been appointed under section 29, the local authority may apply to him to split up the draft scheme into different sections and to deal with each section separately as if each section were a separate draft scheme. The arbitrator may, after making such inquiry as he thinks fit, split the draft scheme into sections. Thereafter the provisions of the Act and the rules made thereunder shall, so far as may be, apply to each of such section as if it were a separate draft scheme. Powers of arbitrator to split draft scheme into separate sections.

**44B.** If a draft scheme or if any of such sections contains any of the following works— Arbitrator to prepare preliminary scheme.

(*i*) construction or alteration of bridges,

(*ii*) roads, open spaces, gardens and recreation grounds,

(*iii*) drainage, inclusive of sewage, surface drainage and sewage disposals,

(*iv*) water supply,

(*v*) any other work which in the opinion of the arbitrator is for a public purpose,

the arbitrator shall, on the application of the local authority, prepare in regard to such scheme or section in the prescribed manner a preliminary scheme in accordance with the provisions of section 30 :

Provided that it shall not be necessary for the arbitrator at this stage to exercise the powers referred to in clauses (*3*), (*3A*), (*3B*), (*3C*), (*3D*), (*4*), (*5*), (*6*), (*7*), (*9*) and (*10*) of section 30.

**44C.** (*1*) Where a local authority thinks that, in the interest of the public, it is necessary to undertake forthwith any of the works referred to in section 44B and included in a preliminary scheme, the local authority shall make an application through the arbitrator to the State Government to vest in it the land shown in the preliminary scheme. Power to hand over possession of land required for bridges, roads, etc.

(*2*) The State Government, if satisfied that it is urgently necessary in the public interest to empower the local authority to enter on the land for the purposes of executing any of the works aforesaid, may direct the arbitrator by notification in the *Official Gazette* to take possession of the land and may also fix the period during which the execution of the said works shall be completed :

Provided that the period so fixed may for sufficient reasons be extended from time to time.

(*3*) The arbitrator shall then give a notice in the prescribed manner to the person interested in the land the possession of which is to be taken by the arbitrator requiring him to give possession of his land to the arbitrator or any person authorised by him in this behalf within a period of one month from the date of the notice and if no possession is delivered within the period specified in the notice, the arbitrator shall

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[1] This Chapter was inserted by Bom. 19 of 1951, s. 3.

take possession of the land and shall hand over the land to the local authority. Such land shall thereupon, notwithstanding anything contained in section 40, vest absolutely in the local authority free from all incumbrances.

Commissioner or Magistrate to enforce surrender of land if not delivered.

**44D.** (*1*) If the arbitrator is opposed or impeded in taking possession of the land under section 44C, he shall request, in Greater Bombay, the Commissioner of Police, and elsewhere, the District Magistrate to enforce the surrender of the land, to the arbitrator. The Commissioner or the District Magistrate, as the case may be, shall take or cause to be taken such steps and use or cause to be used such force as may, in the opinion of such officer, be reasonably necessary for securing compliance, with the notice.

(*2*) For the avoidance of doubt, it is hereby declared that the power to take steps under sub-section (*1*) includes the power to enter upon any land or other property whatsoever.

Owner of land of which possession is taken entitled to interest.

**44E.** The owner of the land the possession of which is taken by the arbitrator under section 44C or 44D shall be entitled to an interest at the rate of 4 per cent. per annum on the amount of compensation payable to him under the Act in respect of the said land from the date on whch such possession is taken till the date on which the final scheme in which such land is included comes into force or till the land is restored to the owner under section 47C, as the case may be.

Application of Chapter to pending schemes.

**44F.** Notwithstanding anything contained in the foregoing provisions of this Chapter, it shall be lawful to any local authority to apply to the arbitrator for the splitting of any pending scheme into sections or for the preparation of a preliminary scheme in respect thereof, and on such application being made, the aforesaid provisions shall, so far as may be, apply to such scheme.

*Explanation.*—For the purposes of this section, a pending scheme shall mean a scheme in respect of which a declaration of its intention to make a scheme has been made by a local authority under sub-section (*1*) of section 9 before the date on which the Bombay Town Planning (Amendment) Act, 1951, comes into force, but in respect of which the final scheme has not been forwarded to the State Government for sanction under section 40.] Bom. XIX of 1951.

## CHAPTER V.

### MISCELLANEOUS.

Joint town-planning schemes.

**45.** (*1*) When two or more local authorities are of opinion that the interests of contiguous areas within their respective jurisdictions can best be served by the making of a joint town-planning scheme, and the [1][[2][State] Government] agrees with such opinion, a joint Town Planning Board shall be constituted.

(*2*) Such Board shall consist of representatives of each of the several local authorities and of persons nominated by the [1][[2][State] Government] in such proportion as may be prescribed.

(*3*) The representatives of the several local authorities shall be elected in the prescribed manner on dates appointed by the [1][[2][State] Government] [3]* * *

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "in any area for which a municipal corporation is constituted under any enactment and by the Commissioner elsewhere" were deleted by Bom. 28 of 1950, s. 4, Schedule.

(*4*) Such Board, when duly constituted, shall make a declaration of intention to make a joint town-planning scheme in respect of the contiguous areas in the manner provided in section 9 and thereafter the procedure shall follow all the provisions of this Act and such Board shall have all the powers and be liable to all the duties of a local authority under the provisions of this Act.

(*5*) The draft joint town-planning schen shall specify the parts of the scheme to be executed by the several local authorities in the several contiguous areas and the several parts of the scheme shall, when notified in the final scheme, have effect in the several contiguous areas as if they are separate schemes :

Provided that any part of a joint town-planning scheme may be executed jointly by two or more local authorities.

Vesting of property and rights of a local authority ceasing to exist or ceasing to have jurisdiction.

[1][**45A.** When any local authority ceases to exist or ceases to have jurisdiction over any area included in a town-planning scheme the property and rights vested in such local authority under this Act shall, subject to all charges and liabilities affecting the same, vest in such other local authority or authorities as the [2][ [3][State] Government] may, with the consent of such authority or authorities, by notification in the [4][*Official Gazette*], direct ; and such local authority or each one of such local authorities shall have all the powers under this Act in respect of such scheme or such part of a scheme as comes within its jurisdiction which the local authority ceasing to exist or ceasing to have jurisdiction had.]

Power to vary a scheme on the ground of error, irregularity or informality

[5][**45B.** (*1*) If after the final scheme has come into force, the local authority considers that the scheme is defective on account of an error, irregularity or informality, the local authority may apply in writing to the [3][State] Government for the variation of the scheme.

(*2*) If on receiving such application or otherwise, the [3][State] Government is satisfied that the variation required is not substantial, the [3][State] Government shall publish a draft of such variation in the prescribed manner.

(*3*) The draft variation published under sub-section (*2*) shall state every amendment proposed to be made in the scheme, and if any such amendment relates to a matter specified in any of the clauses (*a*) to (*g*) of section 3, the draft variation shall also contain such other particulars as may be prescribed.

(*4*) The draft variation shall be open to the inspection of the public at the office of the local authority during office hours.

(*5*) Within one month of the date of publication of the draft variation, any person affected thereby may communicate in writing any objection to such variation to the [3][State] Government through the Collector and Commissioner.

(*6*) After receiving the objections under sub-section(*5*), the [3][State] Government may after consulting the local authority and after making such enquiry as it may think fit, by notification in the *Official Gazette*—

(*a*) appoint an Arbitrator and thereupon the provisions contained in Chapter IV shall, so far as may be, apply to such draft variation, as if it were a draft scheme sanctioned by the [3][State] Government, or

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[1] Section 45A was inserted by Bom. 16 of 1920, s. 2.

[2] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council,

[3] The word " State " was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[4] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by the Adaptation of Indian Laws Order in Council.

[5] This section was inserted by Bom. 21 of 1938, s. 20.

(*b*) make the variation with or without modifications, or

(*c*) refuse to make the variation.

(*7*) From the date of the notification making the variation, the variation shall take effect as if it were incorporated in the scheme.]

Power to vary or revoke a town-planning scheme.

**46.** (*1*) [1][Notwithstanding anything contained in section 45B] a town-planning scheme may at any time be varied or revoked by a subsequent scheme prepared, published and sanctioned in accordance with this Act.

(*2*) The [2][ [3][State] Government], on the application of the local authority or of any person appearing to [4][it] to be interested, may at any time, by notification in the [5][*Official Gazette*], revoke a town-planning scheme if [4][it ] thinks that under the special circumstances of the case the scheme should be so revoked.

Compensation when final scheme is varied or revoked.

**47.** If at any time after the day on which the final scheme has come into force such scheme is varied or revoked, any person who has incurred expenditure for the purpose of complying with such scheme shall be entitled to receive compensation from the local authority, in so far as any such expenditure is rendered abortive by reason of the variation or revocation of such scheme.

Apportionment of costs of scheme withdrawn, not sanctioned or revoked.

[6][**47A.** In the event of a town-planning scheme being withdrawn or sanction to a draft scheme or a final scheme being refused by the [3][State] Government or a final scheme being revoked, the [3][State] Government may direct that the costs of the scheme shall be borne by the local authority or be paid to the local authority by the owners concerned, in such proportion as the [3][State] Government may in each case determine.]

Delegation of certain powers of local authority and Joint Town Planning Board.

[7][**47B.** (*1*) A local authority may by order in writing direct that all or any of the powers conferred on it by sections 15, 42 and 43 shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised by the Chief Officer or any such officer of the local authority as may be specified in the direction.

(*2*) A Joint Town Planning Board may, by order in writing, direct that all or any of the powers conferred on it by sections 15, 42 and 43 shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised by such officer of any local authority as the Joint Town Planning Board may specify in the direction.]

Compensation for land vested in local authority under section 44C and restoration of such land in certain cases.

[7][**47C.** (*1*) If the local authority has not executed any works on the land for which the land was vested in the local authority under section 44C within the period fixed under sub-section (*2*) of the said section, the arbitrator shall make or tender to the owner or the person interested in the land, such compensation for the damage, if any, done to the land as he may think reasonable and shall restore the land to the owner or person interested therein.]

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[1] These words, figures and letter were inserted by Bom. 21 of 1938, s. 21.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] The word "it" was substituted for the words "him" and "he" by the Adaptation of Indian Laws Order in Council.

[5] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[6] This section was inserted by Bom. 21 of 1938, s. 22.

[7] This section was inserted by Bom. 19 of 1951, s. 4.

Provincial Government may itself or through any person exercise power or perform duty conferred or imposed on a local authority.

**48.** If in the opinion of the [1][Provincial Government] any local authority is not competent to exercise or perform, or neglects or fails to exercise or perform, any power conferred or duty imposed upon it under any of the provisions of this Act, the [1][Provincial Government], or any person or persons appointed in this behalf by the [1][Provincial Government], may exercise such power or perform such duty.

Bar of legal proceedings.

**49.** No suit or other legal proceedings shall be maintained in respect of the exercise of any discretion conferred by this Act or against any public servant or person duly appointed or authorised under this Act in respect of anything in good faith done or purporting to be done under the provisions thereof or the rules made thereunder.

Registration of document, plan or map in connection with a final scheme is not required.

**50.** (*1*) Nothing in the Indian Registration Act, 1908, shall be deemed to require the registration of any document, plan or map prepared, made or sanctioned in connection with a final scheme which has come into force and which has not been revoked.

XVI of 1908.

(*2*) All such documents, plans and maps shall, for the purposes of sections 48 and 49 of the Indian Registration Act, 1908, be deemed to have been and to be registered in accordance with the provisions of that Act:

XVI of 1908.

Provided that documents, plans and maps relating to the sanctioned scheme shall be accessible to the public in the manner prescribed.

Land needed for purpose of town-planning scheme may be compulsorily acquired.

**51.** Land needed for the purpose of a town-planning scheme shall be deemed to be land needed for a public purpose, within the meaning of the Land Acquisition Act, 1894.

I of 1894.

Power of Provincial Government to acquire lands included in a town planning scheme.

[2][**51A.** (*1*) If at any time the Provincial Government is of opinion that any land included in a town planning scheme is needed for a public purpose other than that for which it is included in the scheme, it may make a declaration to that effect in the *Official Gazette* in the manner provided in section 6 of the Land Acquisition Act, 1894. The declaration so published shall, notwithstanding anything contained in the said Act, be deemed to be a declaration duly made under the said section.

I of 1894.

(*2*) On the publication of a declaration under sub-section (*1*), the Collector shall proceed to take order for the acquisition of the land and the provisions of the Land Acquisition Act, 1894, shall so far as may be apply to the acquisition of the said land.

I of 1894.

I of 1894.

(*3*) In the proceedings under the Land Acquisition Act, 1894, the local authority concerned shall be deemed to be a person interested in the land acquired and in determining the amount of compensation to be awarded to the local authority, the Collector or the Court, as the case may be, may take into consideration the value, if any, paid by the local authority for the acquisition of the said land under section 51 or otherwise, and the proportionate cost of the scheme, if any, incurred by the local authority and rendered abortive by reason of the variation of the scheme on account of such acquisition.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] This section was inserted by Bom. 55 of 1948, s. 5.

(*4*) On the land vesting in the Crown under section 16 or 17 of the Land Acquisition Act, 1894, as the case may be, the scheme shall be deemed to have been suitably varied by reason of acquisition of the land.] I of 1894.

Special provision in case of a municipality which is superseded or dissolved.

[1][2]**51B.** Where a municipality is superseded under sub-section (*1*) of section 179 of the Bombay District Municipal Act, 1901, or dissolved or superseded under sub-section (*1*) of section 219 of the Bombay Municipal Boroughs Act, 1925 [3][or where a panchayat is superseded under sub-section (*1*) of section 102 of the Bombay Village Panchayats Act, 1933,]— Bom. III of 1901. Bom. XVIII of 1925.

(*a*) the person or persons appointed under clause (*b*) of sub-section (*3*) of the said section 179 of the Bombay District Municipal Act, 1901, or under clause (*b*) of sub-section (*2*) of the said section 219 of the Bombay Municipal Boroughs Act, 1925, [4][or under clause (*a*) of sub-section (*4*) of the said section 102 of the Bombay Village Panchayats Act, 1933,] as the case may be, shall be deemed to be a municipality [5][or Panchayat, as the case may be,] within the meaning of section 2 (*a*) of this Act, and may exercise all the powers and perform all the duties of a local authority under this Act, during the period of supersession of or dissolution of such municipality [5][or Panchayat]; Bom. VI of 1933. Bom. III of 1901. Bom. XVIII of 1925. Bom. VI of 1933.

(*b*) in the event of a person or persons appointed as aforesaid exercising the powers and performing the duties of a local authority under this Act, any property which may under the provisions of this Act vest in the local authority exercising such powers and performing such duties shall, during the period of supersession or dissolution of the municipality [5][or Panchayats as the case may be] vest in His Majesty; and such property shall, at the end of the said period, vest in such municipality [5][or Panchayat] as the Provincial Government may, by notification in the *Official Gazette*, direct.]

Rules.

**52.** (*1*) The [6][Provincial Government] may make rules consistent with the provisions of this Act to provide for all matters not specifically enacted therein.

(*2*) In particular and without prejudice to the generality of the foregoing power such rules shall be made to determine the following matters:—

(*a*) the procedure to be followed by the officer appointed to hold an enquiry for the purpose of deciding a disputed claim as to ownership under section 4;

(*b*) the notice to be given under section 5;

(*c*) the manner of publication of a declaration of intention to make a scheme under sub-section (*2*) of section 9;

(*d*) the manner of publication of a draft scheme under section 10;

(*e*) the further particulars to be prescribed for inclusion in the draft scheme under clause (*f*) of section 11;

[7][(*ee*) the period within which a local authority shall submit a draft scheme under sub-section (*1*), and the period within which Government may sanction it or refuse to give sanction to it under sub-section (*2*) of section 14];

(*f*) the form of the commencement certificate to be granted by a local authority under clause (*a*) of sub-section (*1*) of section 15 and the conditions, if any, to be included therein;

(*g*) the procedure to be followed by a local authority in making an enquiry under clause (*c*) of sub-section (*1*) of section 15;

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[1] This section was inserted by Bom. 4 of 1942, s. 2, read with Bom. 23 of 1947, s. 2.

[2] This section was renumbered as section 51B by Bom. 55 of 1948, s. 5.

[3] This portion was inserted by Bom. 13 of 1949, s. 2.

[4] This portion was inserted, *ibid.*

[5] These words were inserted, *ibid.*

[6] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council

[7] This clause was inserted by Bom. 21 of 1938, s. 23 (*a*) (*i*).

(*h*) the time to be allowed for making a claim to compensation under section 21 ;

(*i*) the period within which payment is to be made to the local authority under section 24 ;

(*j*) the procedure to be prescribed under section 30 and the notices to be given under sub-sections (*1*), (*2*) and (*9*) of that section ;

(*k*) the form in which the arbitrator is to draw up the final scheme under sub-section (*10*) of section 30 ;

(*l*) the way in which the [1][[2][State] Government] is to publish a notification relating to the final scheme under sub-section (*1*) of section 40 ;

(*m*) the procedure to be followed by the local authority in summarily evicting a person under section 42 ;

(*n*) the notice to be given by the local authority before it takes action under section 43 ;

[3][(*na*) the manner of preparing a preliminary scheme under section 44B ;

(*nb*) the manner of giving notice under section 44C.]

(*o*) the proportion of elected and nominated persons on a Joint Planning Board under sub-section (*2*) of section 45 ;

(*p*) the manner of election of representatives of the several local authorities under sub-section (*3*) of section 45 ;

[4][(*pp*) the manner of publication of a draft variation under sub-sections (*2*) and (*3*), and the particulars a draft variation shall contain under sub-section (*4*) of section 45B ;]

(*q*) the manner in which documents, plans and maps shall be made accessible to the public under the proviso to section 50 ;

(*r*) the procedure to be adopted for securing co-operation on the part of the local authority with the owners or persons interested in land proposed to be included in a town-planning scheme at every stage of the proceedings by means of conferences and such other means as may be expedient ;

(*s*) the procedure to be followed by an arbitrator appointed under this Act ;

(*t*) the procedure to be followed by a Tribunal of Arbitration under this Act ;

(*u*) the procedure to be followed generally in carrying out the provisions and objects of this Act ;

(*v*) the extent to which the proceedings of local authorities under this Act shall be regulated by any municipal or local law applicable to such authorities.

[5][(*2A*) A rule made under this section may provide that a contravention of any of the provisions of this Act or of the final scheme published under section 40 or of the rules which are specified in such rule shall be punishable with fine which may extend to Rs. 1,000 and, in the case of a continuing contravention with an additional fine which may extend to Rs. 10 for every day during which such contravention continues after conviction for the first such contravention.]

(*3*) The power to make rules under this Act shall be subject to the condition of previous publication.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] These clauses were inserted by Bom. 19 of 1951, s. 5.

[4] This clause was inserted by Bom. 21 of 1938, s. 23 (*a*) (*ii*).

[5] This sub-section was inserted, *ibid*, s. 23 (*b*).